

BEFORE THE DEPART OF INSURANCE
STATE OF NEBRASKA

JUL 23 2001

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

PETITIONER,

VS.

SARA M. SPINHARNEY

RESPONDENT.

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CONSENT ORDER

CAUSE NO. A-1434

FILED

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Manuel Montelongo, and Sara Spinharney ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001, et seq.
2. Respondent is licensed as an insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Sara Spinharney, on June 15, 2001. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.
2. The petition alleges that Respondent violated Neb.Rev.Stat. §44-4028(3) and (11) as follows:
 - a. On or about September 25, 2000, the Respondent while employed at National Insurance Agency, an agency in Omaha, Nebraska, accepted an application from William and Cathy Kruse of Omaha, Nebraska, for dwelling fire insurance coverage to be provided by Auto-Owner Insurance

Company. The Respondent accepted a premium payment for the coverage in the amount of \$421. The Respondent failed to remit the application for insurance coverage and premium payment to Auto-Owner Insurance Company. The Respondent had issued a binder to the mortgagee misrepresenting that insurance coverage was in effect when it was not.

- b. In 2000 the Respondent effected flood insurance coverage for insured Ann Spires however, the Respondent misquoted the premium and submitted premium to provide for \$8,800 in dwelling coverage and \$4,000 in contents coverage when Ms. Spires requested coverage amounts of \$120,000 and \$64,000 respectively.
- c. In 1999 the Respondent sold an Auto-Owners Insurance Company disability insurance policy to Sandra Johnston of Omaha, Nebraska. The policy was issued however, the Respondent failed to pursue additional delivery requirements. This failure to follow-up on the application resulted in no premium payments being made to Auto-Owners. Ms. Johnston asked the Respondent to explain why she had not received any notices to pay premiums. The Respondent misrepresented that coverage was in effect when it was not and mislead Ms. Johnston to believe that the insurer was having administrative problems resulting in the failure to bill Ms. Johnston properly. On February 23, 2001, Ms. Johnston contacted National Insurance Agency and discovered that the policy had been cancelled for nonpayment of premium.
- d. On or about April 2000, the Respondent sold a Travelers Property Casualty ("Travelers") insurance company automobile insurance policy to Brent Kotschwar, of Omaha, Nebraska, and quoted him a premium rate due on the coverage of \$635.00. Subsequently, Mr. Kotschwar received a notice from Travelers that the total premium due was more than \$635.00 and requested he remit an additional \$168.00 payment. Mr. Kotschwar spoke with the Respondent who assured him that the National Insurance Agency would pay the difference in premium. The insurance policy was cancelled effective September 5, 2000, for nonpayment of premium. In October 2000, the Respondent convinced Travelers to reinstate the policy if an additional \$168.00 in premium was paid. However, the Respondent failed to remit the additional payment. Coverage was not reinstated so on November 20, 2000, Mr. Kotschwar spoke with the Vice President of National Insurance Agency. After becoming aware that the full premium payment had not been paid by the Respondent National Insurance Agency contacted Travelers and convinced it to accept the additional premium payment to maintain the insurance coverage.

3. The Respondent was informed of her right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent

understands and acknowledges that by waiving her right to a public hearing, Respondent also waives her right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraph #2 above.

CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes a violation of Neb.Rev.Stat. §44-4028 (3) and (11).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Sara M. Spinharvey, that Respondent consents to suspension of her insurance agent's license for a period of six months from the date the Director signs this Consent Order. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing his or her signature below.

Manuel Montelongo
Manuel Montelongo
Department of Insurance
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

July 23, 2001
Date

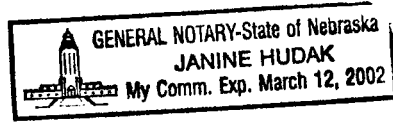
Sara M. Spinharvey
Sara M. Spinharvey, Respondent
7-16-01
Date

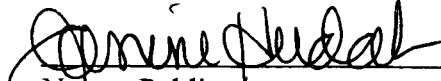
Attorney for Respondent

Date

State of Nebraska)
) ss.
County of Douglas)

On this 16 day of July, 2001, Sara M. Spinharney personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Sara M. Spinharney, Cause No. A-1434.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

July 23, 2001
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at Respondent's registered address of 2716 South 45th Street, Omaha, NE 68106 by certified mail, return receipt requested on this 23rd day of July, 2001.

